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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/787,190 06/19/01 GASSENMEIER

T H3486 PCT/US

023657 HM12/0816
COGNIS CORPORATION
2500 RENAISSANCE BLVD., SUITE 200
GULPH MILLS PA 19406

EXAMINER

YU.G

ART UNIT

PAPER NUMBER

1619

DATE MAILED:

08/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/787,190

Applicant(s)

GASSENMEIER ET AL.

Examiner

Gina C Yu

Art Unit

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of Preliminary Amendment filed on June 19, 2001.

Claims 1-6 have been cancelled and new claims 7-25 are now pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is rejected because the term "enhancing" is a relative term. There is no indication to what the enhancing moisturizing properties are being compared, and the metes and bounds of the patent protection sought are unclear.

The remaining claims are rejected as depending on the indefinite base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hensen (DE 19756454 C1), or alternatively, in view of Hill et al. (U.S. Pat. No. 5,733,536).

Hensen et al. teach the use of 1-50 % by weight of glycerol carbonate based on surfactants for cosmetics including hair shampoos, lotions, creams or bubble bath. See p. 1, lines 10 – 39; p. 6, lines 59 – 64.. The reference teaches that glycerol carbonate is used as an emulsifier and replacement for silicone in p. 6, lines 50 - 56, and provides brightening and antistatic activity and improves the dry combing properties, while stabilizes active agents which are not readily emulsified. The reference lacks the explicit teaching of using the glycerol carbonate to enhance moisturizing effect of the composition.

Hill et al. teach hair care compositions containing silicone dispersion. The reference teaches that the dispersed silicone as contained in hair care products provide conditioning and moisturizing of hair. See abstract.

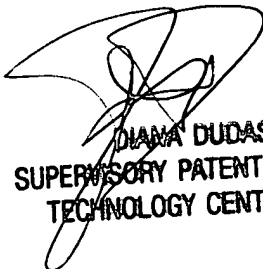
Although the reference fails to expressly teach its use as a moisturizer, examiner takes the position that since the composition of Hensen et al. meets the limitation of the instant claims, the moisturizing benefit of the composition is necessarily present. Alternatively, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used Hensen et al.'s composition, to provide moisture on skin or hair, as suggested by Hill et al., because of the expectation that the glycerol-carbonate-containing composition would successfully provide similar moisturizing effect as silicone.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mazo et al. (U.S. Pat. No. 5,939,517); Berthiaume (U.S. Pat. No. 5,672,338).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-305-3593. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash can be reached on 703-308-2328. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu
Patent Examiner
August 13, 2001



DIANA DUDASH
SUPERVISORY PATENT EXAMINER
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